

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

FILED
U.S. DISTRICT COURT

2018 APR 26 P 1:27

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

CASE NO.: 2:17-cv-01223-RJS

UNITED STATES OF AMERICA,
Plaintiff,

v.

PAUL KENNETH CROMAR, and
BARBARA ANN CROMAR, et al.

Defendant's Objection
to the Order of the Court
and

Motion to Suspend Proceedings for
Lack of a Demonstrated subject-matter
jurisdiction of the court
that is properly and fully shown
on the record of the action

**Defendant's Objection to the Order of the Court
and
Motion to Suspend Proceedings
for Lack of a Demonstrated subject-matter jurisdiction
of the court that is properly and fully shown on the record of the action**

1. Comes now, Paul Kenneth: Cromar and Barbara Ann: Cromar, *pro se*, Defendants who hereby file this *Objection to the Order of the Court* and *Motion to Suspend Proceedings* in the court because neither the plaintiff United States nor the court itself, have yet properly identified and fully established on the written record of the civil action, all **three** of the **required legal elements** of the alleged constitutionally granted *subject matter jurisdiction* of the court that can lawfully be taken over this civil action by the court. Defendants *object* to the *Order of the Court* ordering the plaintiff to propose a schedule when there is no **complete subject matter jurisdiction** of the court that exists to be taken over the action ***as argued in the Complaint under the 16th Amendment.***

2. Until **all three required elements** of the alleged constitutionally granted *subject matter jurisdiction* of the court, that it can lawfully take over this civil action, are established on the formal record of the action in the court, the court cannot allow or entertain any other pleadings, **or schedule, or order scheduled, any further proceedings PERIOD.**
3. The Plaintiff **must** establish the granted subject-matter jurisdiction of the court that it can take over this action, **before** the court can allow, **schedule**, entertain, or rule on any other pleading, or take any other action in the case. Furthermore, the defendants cannot be expected, or required by the court, to schedule proceedings to answer an **undefined** and **unidentified non-specific vague, arbitrary and capricious** cause of action, or any other pleadings improperly submitted by the plaintiff, until this essential issue of the subject-matter jurisdiction of the court that can be taken over this action is **first completely settled.**
4. It is well established that it is **absolutely necessary** for any litigant in the courts to fully know and understand the *subject-matter jurisdiction* of the court that exists to be taken over the action, **before** that litigant (defendants) can **even know how** to properly argue any issue in the case, at all, correctly.
5. Before proceeding even one step further, in any manner at all, the plaintiff must completely and **fully** establish the alleged *subject matter jurisdiction* of the court that it alleges exists, sufficient to support the claims, as **specifically** argued in the plaintiff's *Complaint* under the 16th Amendment.

"However late this objection has been made or may be made in any cause in an inferior or appellate court of the United States, it must be considered and decided **before any court can move one further step in the cause**, as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law, to render a judgment or decree upon the rights of the litigant parties." *State of Rhode Island v. The State of Massachusetts*, 37 U.S. 657, 718 (1838)

6. This court cannot ignore the *Motions* of the defendants challenging the absence of a declared, granted *subject-matter jurisdiction* of the court that can be taken over this action. *Subject-matter jurisdiction* of the court **must** be established on the record of the action in the court.

7. In order for the plaintiff (or the court itself) to lawfully and properly **fully** establish the granted *subject-matter jurisdiction* of the district court that is alleged to exist, and that allegedly can be taken over the civil action by the court; - to sustain the action in the court; - it is absolutely necessary for the plaintiff to fully **identify** on the record of the action, **all three** of the **required elements** of a **properly** and **fully constitutionally** granted *subject-matter jurisdiction* of the court that can be taken over the civil action, *i.e.*:

- (1) a **specific power must be identified as granted** by the Constitution (or Amendment) for the U.S. Congress to exercise;
- (2) a specific **grant** of authority for Congress **to write law** must be made by the Constitution (or Amendment), with respect to the administration and enforcement of the **specific power** granted in (#1) above¹; and,
- (3) a specific statute must be **legislatively enacted** by an **authorized** Congress, that has specific application to the enforcement of the *power* granted and exercised in (#1) above and **made enforceable** with law from a so-authorized Congress, under (#2) above.

8. Until the plaintiff, or this court itself, have properly established the alleged *subject matter jurisdiction* of the court that has been taken over the civil action, which it has not yet done on the record of the action, and which the Plaintiff **obviously will not or cannot** do, - as made evident from its ludicrous *subject-matter jurisdiction* claims citing only statutes and *opinions* - without citing any **specific** legitimate constitutional *power exercised* or granted as the legal foundation to the action in the court; - and without citing any **applicable enabling**

¹ *i.e.*: a specific **enabling enforcement clause** of the Constitution, or **one of its** Amendments, must be shown to have been made applicable to the **specific taxing power** alleged *constitutionally* granted, and *operationally practiced* under (#1) above;

enforcement clause that is properly associated with the administration or enforcement of the specific power *alleged* granted and exercised *in practice*. This required *due process* full disclosure has never been made on the record of the action in the court. Tom Freed

Page 4 4/26/18

9. Therefore, this legal action cannot proceed any further in the federal district court, *as argued* in the *Complaint*, and the *Order of the Court* must be amended or stricken from the record and cannot be lawfully pursued without declaring the **full subject matter jurisdiction** of the court that has been taken over the civil action.

"It is well established that federal courts are courts of limited jurisdiction, possessing only that power authorized by the Constitution and statute." *Hudson v. Coleman*, 347 F.3d 138, 141 (6th Cir. 2003)

"Subject-matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived. Consequently, defects in subject-matter jurisdiction require correction regardless of whether the error was raised in district court." *United States v. Cotton*, 535 U.S. 625, 630 (2002); *Accord Jordon v. Gilligan*, 500 F.2d 701 (6th CA, 1974) ("[A] court must vacate any judgment entered in excess of its jurisdiction."); *State v. Swiger*, 125 Ohio.App.3d 456. (1995) ("If the trial court was without subject matter jurisdiction of defendant's case, his conviction and sentence would be void *ab initio*."); *Burrell v. Henderson, et al.*, 434 F.3d 826, 831 (6th CA 2006) ("[D]enying a motion to vacate a void judgment is a per se abuse of discretion.").

"In a long and venerable line of cases, the Supreme Court has held that, without proper jurisdiction, a court cannot proceed at all, but can only note the jurisdictional defect and dismiss the suit. See, *e.g.*, *Capron v. Van Noorden*, 2 Cranch 126; *Arizonans for Official English v. Arizona*, 520 U.S. 43, (1997). *Bell v. Hood, supra*; *National Railroad Passenger Corp. v. National Assn. of Railroad Passengers*, 414 U.S. 453, 465, n. 13; *Norton v. Mathews*, 427 U.S. 524, 531; *Secretary of Navy v. Avrech*, 418 U.S. 676 , 678 (per curiam); *United States v. Augenblick*, 393 U.S. 348 ; *Philbrook v. Glodgett*, 421 U.S. 707, 721; and *Chandler v. Judicial Council of Tenth Circuit*, 398 U.S. 74, 86-88, distinguished. For a court to pronounce upon a law's meaning or constitutionality when it has no jurisdiction to do so is, by very definition, an *ultra vires* act. Pp. 93-102." *Steel Co., aka Chicago Steel & Pickling Co. v. Citizens For a Better Environment*, No. 96-643, 90 F.3d 1237 (1998)

"Jurisdiction, once challenged, **cannot be assumed** and must be decided." *Maine v Thiboutot*, 100 S. Ct. 2502 (1980).

"The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." *Maine v Thiboutot*, 100 S. Ct. 2502 (1980)

10. Therefore, as there is no proper or complete declaration of the specific *subject matter jurisdiction* of the court that was taken over the civil action that is present on the record of the action in the court, the *Order of the Court* is issued prematurely and improperly, as it is prejudicial to the defendants' *due process* and *private property Rights* for the court to compel them to move forward in the action at this time, without first telling them, on the record of the action, what the granted *subject-matter jurisdiction* of the court is, - that can properly and lawfully be taken over this civil action.

11. Further proceedings in this action are therefore procedurally **barred** by the Federal Rules of Civil Procedure from going forward, until the plaintiff makes a proper and full disclosure of the alleged *subject matter jurisdiction* of the federal district court that it is alleged can be taken over the civil action, to allow the court to entertain the action, to allow it to proceed in the federal courts under the specifically identified, legitimate, **enforceable** *subject matter jurisdiction* of the court.

12. The *Order of the Court* to schedule proceedings is therefore filed **improperly** and **prematurely**, and **cannot** be enforced at this time, until the apparent **lack** of a fully-granted *subject-matter jurisdiction* of the court that can lawfully be taken over the civil action, is resolved, and the granted *subject-matter jurisdiction* alleged taken, is properly and **completely identified** and **shown** on the formal record of the action in the court, including the **specific enabling enforcement clause** of the U.S. Constitution *alleged* applicable to the action, and the specific *taxing power practiced in operation* by the plaintiff's IRS.

13. The federal courts clearly **lack** all true ability to take a proper, fully granted *subject-matter-jurisdiction* over any *claim* for tax made by the United States where the plaintiff's *Complaint* asks the court to enforce a *claim* that is based in an alleged *taxing power* created under the 16th Amendment as a *direct* tax, **instead** of under Article I, Section 8, clauses 1 and 18, as an *indirect* *Impost, Duty* or *Excise* tax, which the defendants have **no** *subjectivity* to, by definition.

14. If the plaintiff's attorneys and the court itself, continue to refuse to disclose to the Defendants **all three² of the required elements** of the alleged *subject-matter jurisdiction* of the court that can lawfully be taken by the court to enforce the *direct unapportioned* tax *claimed* by the plaintiff to be owed by the Defendants under the 16th Amendment, **or** - in recognition of the *constitutional fact* that there is a *controlling lack* of **ALL** ability to properly and fully demonstrate such *subject-matter jurisdiction*, - to *dismiss* the action with *prejudice* for *lack of any fully granted subject-matter jurisdiction* that can truthfully be taken under the 16th Amendment (rather than under Article I, Section 8, clause 1 authorizing the lawful enforcement of all *indirect* taxes laid as *Impost, Duty*, or *Excise*); then they (the plaintiff's attorneys and the court itself) forfeit any claim of lawful authority to act in the court on this case, and open the courtroom doors to the possibility of being named themselves as defendants in a counterclaim or Cross-Complaint for *Violation of Rights* and *conspiracy* to unlawfully violate the constitutional *Rights* of the defendants: to legal *due process* and to *private property*, and to be told the true nature of the accusations and claims made against them before trial proceedings are conducted in blatant violation of Article I, Section 9, clause 4, and Article I, Section 2, clause 3, of the U.S. Constitution.

Respectfully submitted,

² To include: (1) the specific *taxing power* granted by the Constitution for the Congress to legislatively exercise; (2) the specific Congressional authority to write law applicable to the enforcement of the *taxing power* claimed in (1), being consistent with the *taxing power* exercised in *operational practice* by the IRS; and, (3) the statutes enacted by Congress and published in the CFR with specific applicability to the enforcement of the *taxing power granted* under (1) – which statutes are also made applicable to the defendant's *person*.

A handwritten signature in black ink, appearing to read "Paul Kenneth Cromar", written over a horizontal line.

Paul Kenneth: Cromar
9870 N. Meadow Drive
Cedar Hills, UT 84062 usa

And

A handwritten signature in black ink, appearing to read "Barbara Ann Cromar", written over a horizontal line.

Barbara Ann: Cromar
9870 N. Meadow Drive
Cedar Hills, UT 84062 usa


April 26, 2018

CERTIFICATE OF SERVICE

We, Paul Kenneth: Cromar and Barbara Ann: Cromar, certify that a true copy of the attached *Objection & Motion* has been served via Certified Mail to the following:

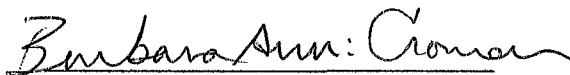
Ryan S. Watson
Trial Attorney, US Department of Justice, Tax Division
P.O. Box 683
Washington, D.C. 20044

Certified Mail # 7010 0290 0000 6869 8697

A handwritten signature in black ink, appearing to read "Paul Kenneth: Cromar", written over a horizontal line.

Paul Kenneth: Cromar
9870 N. Meadow Drive
Cedar Hills, UT 84062 usA

And

A handwritten signature in black ink, appearing to read "Barbara Ann: Cromar", written over a horizontal line.

Barbara Ann: Cromar
9870 N. Meadow Drive
Cedar Hills, UT 84062 usA

April 26, 2018